

**CHAPTER NO. 984**

**HOUSE BILL NO. 2112**

**By Representative Scroggs**

**Substituted for: Senate Bill No. 2752**

**By Senator Person**

AN ACT to amend Tennessee Code Annotated, Section 40-1-111, relative to judicial commissioners.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-1-111, is amended by deleting subsection (a)(1) and substituting instead the following:

(a)(1)(A) The chief legislative body of any county having a population of less than two hundred thousand (200,000) or a population of not less than two hundred seventy-six thousand (276,000) nor more than two hundred seventy-seven thousand (277,000) or a population of over seven hundred thousand (700,000) according to the 1970 Federal Census or any subsequent Federal Census may appoint one (1) or more judicial commissioners whose duty or duties shall include, but not be limited to, the following:

(i) Issuance of search warrants and felony arrest warrants upon a finding of probable cause and pursuant to requests from on-duty law enforcement officers and in accordance with the procedures outlined in chapters 5 and 6 of this title;

(ii) Issuance of mittimus following compliance with the procedures prescribed by § 40-5-103;

(iii) The appointing of attorneys for indigent defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county;

(iv) The setting and approving of bonds and the release on recognizance of defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county; and

(v) Issuance of injunctions and other appropriate orders as designated by the general sessions judges in cases of alleged domestic violence.

(B) The term or terms of the officers shall be established by the chief legislative body of the counties but shall not exceed a four-year term. No member of the county legislative body shall be eligible for appointment as a judicial commissioner. Notwithstanding the provisions of this subdivision to the contrary, the presiding general sessions criminal judge of a county may appoint a temporary, or part-time, judicial commissioner to serve at the pleasure of the presiding judge in case of absence, emergency or other need. The legislative body of any county, in appointing, evaluating and making decisions relative to retention and reappointment shall take into consideration views, comments and suggestions of the judges of the courts in which the judicial commissioners are appointed to serve.

(C) In any county having a population greater than seven hundred thousand (700,000) according to the 1970 Federal Census or any subsequent Federal Census, to be eligible for appointment and service as a judicial commissioner a person must be licensed to practice law in the State of Tennessee.

(D) Any county, having a population greater than seven hundred thousand (700,000) according to the 1970 federal census or any subsequent federal census, which appoints and makes use of judicial commissioners shall maintain records sufficient to allow an annual determination of whether the use of judicial commissioners is accomplishing the purposes intended.

On an annual basis the county legislative body shall conduct a public hearing to examine and evaluate the program of judicial commissioners and to determine if such program is being conducted in accordance with law and is contributing to the orderly, effective and fair administration of justice. As a part of the public hearing the county legislative body shall examine the effectiveness of the system of judicial commissioners and hear the opinions of the public concerning such system. The county legislative body shall give notice of such public hearing at least thirty (30) days prior to such meeting.

Following such hearing and not later than April 1<sup>st</sup> of each year, the county legislative body shall cause to be submitted to the judges of the general sessions criminal court of the county, the chair of the judiciary committee of the Tennessee state senate and the chair of the judiciary committee of the house of representatives of the State of Tennessee a written report setting forth findings and the overall evaluation of the use of judicial commissioners.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: April 29, 1998**

  
JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 18<sup>th</sup> day of May 1998

  
DON SUNDQUIST, GOVERNOR